IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8957 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NASIR KHAN SAID AHMAD KHAN PATHAN

Versus

COMMISSIONER OF POLICE

Appearance:

MR MIG MANSURI for the Petitioner.

Mr.M.K. Patel, Assistant GOVERNMENT PLEADER,

for Respondent No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 12/03/2003

ORAL JUDGEMENT

By filing this petition, the petitioner-detenu has challenged his detention order dated 9.8.2002, by which he is detained as a "dangerous person" under the provisions of the Gujarat Prevention of Anti-Social

Activities Act, 1985. Along with the said order, he is served with the grounds of detention. In the said grounds, there is a reference about two criminal cases which are pending against the petitioner. Both the cases are registered at Madhavpura Police Station, Ahmedabad on 16.3.2002 and 5.5.2002. The Detaining Authority, after having been satisfied with the material on record, passed the aforesaid detention order, by which he is detained as a "dangerous person". The said detention order is challenged by filing this petition.

Learned Advocate for the petitioner argued that the said detention order is bad in law on various grounds. It is submitted that the last case against the petitioner was registered on 5th May, 2003, yet, the detention order is passed on 9th August, 2002, and according to him, there is a delay in passing the detention order. He has also taken the point of delay in deciding the representation. It is also submitted that some of the documents annexed with the detention order are absolutely illegible and, therefore, the petitioner is denied the opportunity of making effective representation. So far as the aforesaid point about illegible documents are concerned, it is as such is not in dispute that some of the documents are such that they are not legible at all. The documents in the petition at pages 119, 133, 139, 143, and 181 are absolutely illegible and extremely faint. Learned AGP has also conceded that aspect. The documents are required to be given to the detenu with a view to seeing that he makes an effective representation. Number of documents which are supplied to the petitioner in the instant case are not legible.

Considering the aforesaid aspect of the matter, the detaining authority has not discharged his constitutional obligation by giving legible copies of the documents supplied to the petitioner. In that view of the matter, the petitioner is denied the right to make effective representation by relying upon such documents. In that view of the matter, it is not necessary to decide other points raised by Mr.Mansuri in the petition. Accordingly, the petition is required to be allowed on the aforesaid ground.

This petition is accordingly allowed. The order of detention is quashed and set aside. It is ordered that the detenu be released forthwith unless he is required in connection with any other case. Rule is made absolute.

12th March, 2003 (P.B. Majmudar, J.)

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(apj)